

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5574 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

PATEL SWATIBAHAN LAXMANBHAI THROUGH FATHER AND NATURAL
Versus
STATE OF GUJARAT SECRETARY, EDUCATION DEPTT

Appearance:

MR KB PUJARA for Petitioner
MR AD OZA, G.P. for Respondent Nos. 1,2 & 6.
RULE SERVED BY DS for Respondent No. 1, 4, 5, 6
UNSERVED-REFUSED (R) for Respondent No. 3

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 29/06/2000

ORAL JUDGEMENT

The petitioner passed the Higher Secondary Examination (General Stream) held in March, 2000 and she

is seeking admission to P.T.C.course. Eligibility condition for admission is that the candidate should have attained the age of 17 years as on 1.7.2000. A public notice issued in this connection by the Director of Primary Education states that in the application form date of birth should be mentioned as stated in the School Leaving Certificate. In the School Leaving Certificate of the petitioner the date of birth is mentioned as 21.8.1993. According to this date the petitioner would not be eligible. However, the petitioner's case is that her correct birth date is 21.5.1983 and it was not correctly recorded at the time of her admission to primary school. In support of her case she has also produced the certificate of birth issued by the village panchayat which shows that the petitioner was born on 21.5.1983 and the birth was registered on 1.6.1983. She has therefore filed this petition for a direction that the respondent should decide the petitioner's application for admission on the basis that she was born on 21.5.1983. Reliance is placed on behalf of the petitioner in the decisions of of Diptidevi Patel Vs. State of Gujarat, 25 GLT 150 and Dakshaben J.Patel Vs. Director of Education, 20 GLT 244 which have also been followed by other learned Single Judges of this Court in several cases. The certificate appears to be genuine, and the birth having been registered within ten days, the date of birth as recorded in the birth certificate appears to be correct. However, on behalf of the respondents, affidavit has been filed placing on record the letter dated 19.1.1990 addressed by Education Department to Director of Primary Education, in which, after referring to the decision of this Court in various petitions, it is stated that if any candidate comes with the case that his birth date as recorded in the School Leaving Certificate is not correct and in support of his case the birth certificate issued by the panchayat or municipality is produced, the Director of Primary Education may obtain other relevant evidence and if he is satisfied that the candidate's representation is correct he may admit the candidate. Here the petitioner has already submitted the form accompanied by the birth certificate to the Director of Primary Education. In the circumstances, the Director of Primary Education, respondent no.2, is directed to take appropriate decision on the petitioner's birth date within one week from the date of the receipt of this order and deal with the admission form accordingly. Rule made absolute. Direct service permitted.

m.m.bhatt